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Why do we mitigate for stormwater?

Increases in paved surfaces from roadway construction can contribute to changes in stream flow, stream temperature, water quality and aquifer recharge due to faster stormwater run-off. Additionally, storm events during construction can cause erosion and degraded water quality. WSDOT's stormwater mitigation activities are aimed at minimizing the effects of new impervious surfaces and include strict erosion controls.

Laws and regulations that govern actions affecting stormwater include:

Local Permits and Review

The State Shoreline Management Act (Chapter 90.58 RCW) tasks local governments with establishing shorelines of statewide significance and with creating overall development plans for all shorelines. The Shorelines Management Act regulates stormwater facilities and structures when they are part of a regulated shoreline. Any WSDOT project that proposes placing an outfall or treatment facility that is associated with a regulated shoreline is then subject to regulation under the Shoreline Management Act. The water quality and water quantity discharged by a stormwater facility is not regulated under the Shorelines Management Act. Each county is empowered to enforce elements of the Shorelines Management Act.

The State Growth Management Act (Chapter 36.78 RCW and Chapter 365-195 WAC) requires applicable local governments to establish Critical Area Ordinances for the protection of critical habitats and species. Any WSDOT project that proposes placing an outfall or treatment facility that is associated with a locally regulated critical area will be subject to the local Critical Area Ordinance. The water quality and water quantity discharged by a stormwater facility is not regulated under the Growth Management Act. Each county planning under the Growth Management Act is empowered to adopt and enforce critical area ordinances.

State Permits and Review

The State Environmental Policy Act (SEPA) requires review of potential impacts to stormwater and identification of mitigation opportunities. WSDOT is the lead agency for its projects under SEPA. All agencies with expertise are expected to review documents created by the lead agency. The SEPA administrative code is adopted and updated by the Department of Ecology.

The State's Water Pollution Control Act (Chapter 90.48 RCW) Requires the use of all known, available and reasonable methods of prevention, control and treatment to prevent the pollution of Washington State's waters. Requires waste discharge permits prior to discharging waste materials into waters of the state and requires the Washington State Department of Ecology to investigate proposed discharges to determine whether the discharge will pollute state waters in violation state policy. Authorizes The Washington State Department of Ecology to assume delegation of the federal National Pollutant Discharge Elimination System (NPDES) permit program.

Hydraulic Project Approvals. Chapter 77.55 RCW governs construction projects in state waters and requires the department to get a Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife (WDFW) for all work in state waters. Chapter 220.110 WAC expands on this goal by including all work that may impact state waters. The purpose of this permit is to ensure that the state's aquatic species are not unduly harmed.

Why do we mitigate for stormwater? (Continued)

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Federal Permits and Review

The National Environmental Policy Act (NEPA) applies to all projects that either receive federal funding or are required to obtain federal permits. Potential impacts and mitigation strategies are identified through Environmental Impact Statements (EIS), Environmental Assessments (EA), and Categorical Exclusions (CE). NEPA documents are managed through a federal lead agency, typically the Federal Highway Administration for WSDOT's transportation projects. NEPA is administered by the Environmental Protection Agency. For highway projects, FHWA typically serves as the lead agency for NEPA documentation.

The Endangered Species Act was passed to protect and ensure the long-term viability of avian, terrestrial, aquatic, and marine species of flora and fauna. The United States Fish and Wildlife Service is tasked with managing avian, terrestrial, and aquatic species, while the National Oceanographic Administration Fisheries Service is tasked with managing marine species. The listed species most notable to WSDOT are bull trout and salmon. With the listing of these species, practically every project proposed by the department must be reviewed for compliance with the Endangered Species Act. Each project that receives federal funding must complete a Biological Assessment and obtain a Biological Opinion from both of these agencies prior to construction. The Endangered Species Act does not require a project to mitigate for impacts; however, if a finding of jeopardy for a species is made, the project may not move forward.

The Clean Water Act, Section 401, regulates discharges to waters of the state when a Section 404 permit is required from the United States Army Corps of Engineers. If stormwater impacts occur to waters of the state through a 404 permitted activity, the Department of Ecology is required to certify that the project will be in compliance with the state aquatic protection laws through issuance of the 401 Water Quality Certification. Under an Executive Order, the Governor has delegated authority for Section 401 to the Washington State Department of Ecology.

The Clean Water Act, Section 402, regulates discharge of stormwater. Stormwater that flows from WSDOT construction sites into river systems is strictly regulated for erosion control under a National Pollution Discharge Elimination System permit. This permit establishes best management practices for erosion control on construction projects. WSDOT also mitigates stormwater for impacts due to increased impervious surfaces under these regulations. Enforcement of Section 402 has been delegated by the Environmental Protection Agency to the Washington State Department of Ecology.

The Coastal Zone Management Act requires protection of coastal natural resources such as shellfish and salmon, as well as broader ecological and geological functions of coastal areas. The Coastal Zone Management Act requires states that want to receive federal funding for coastal resource protection to develop a Coastal Zone Management Program. The National Oceanic and Atmospheric Administration Office of Ocean and Coastal Resource Management (OCRM) has approved the Washington State Department of Ecology's program.

Tribal Governments Review. Federal treaties between Sovereign Tribal Nations and the federal government require WSDOT to maintain government-to-government relations with 29 federally recognized tribes. This covers cultural, environmental, and economic rights of the tribe related to aquatic species and habitat.

Why do we mitigate for noise impacts?

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Construction and traffic noise is a nuisance to both humans and wildlife. Noise can affect human sleeping habits and outdoor recreation. Breeding, foraging, and nesting habits in wildlife can be impacted by construction noise. Local ordinances aim to diminish the effect of short-term construction noise, while the Federal Highway Administration regulates traffic noise.

Laws and regulations that govern actions affecting noise include:

Local Permits and Review

Local ordinances that govern noise are limited to construction activities and vary greatly from jurisdiction to jurisdiction. These ordinances may prohibit certain activities such as pile driving or jack-hammering during certain hours of the day. WSDOT often receives variances from these ordinances. Local governments do not regulate chronic traffic noise.

State Permits and Review

The State Environmental Policy Act (SEPA) requires review of potential impacts due to noise and identification of mitigation opportunities. WSDOT is the lead agency for its projects under SEPA. All agencies with expertise are expected to review documents created by the lead agency. The SEPA administrative code is adopted and updated by the Department of Ecology.

WSDOT Department directive D22-22 and the Priority Study (1985) outline the criteria for traffic noise abatement on existing highways.

Federal Permits and Review

The National Environmental Policy Act (NEPA) applies to all projects that either receive federal funding or are required to obtain federal permits. Potential impacts and mitigation strategies are identified through Environmental Impact Statements (EIS), Environmental Assessments (EA), and Categorical Exclusions (CE). NEPA documents are managed through a federal lead agency; typically the Federal Highway Administration for WSDOT's transportation projects. NEPA is administered by the Environmental Protection Agency. For highway projects, FHWA typically serves as the lead agency for NEPA documentation.

FHWA Noise Standards, *Procedures for Abatement of Highway Traffic Noise and Construction Noise*, require a traffic noise analysis for federally funded projects that 1) involve construction of a new highway, 2) significantly change the horizontal or vertical alignment, or 3) increase the number of through traffic lanes on an existing highway. When federal funds are used in project construction, FHWA noise abatement standards must be met.

The Endangered Species Act was passed to protect and ensure the long-term viability of avian, terrestrial, aquatic, and marine species of flora and fauna. Construction noise can have harmful effects on endangered species, including interruption of foraging, breeding, and nesting activities. Each project that receives federal funding must complete a Biological Assessment and obtain a Biological Opinion prior to construction. The Endangered Species Act does not require a project to mitigate for impacts; however, if a finding of jeopardy is made for a species, the project may not move forward.

Why do we mitigate for wetland impacts?

Wetlands perform a broad variety of critical functions for our ecological systems, including providing rearing areas for juvenile salmon, providing flood mitigation, creating rest stops for migratory waterfowl, improving water quality, and providing essential forage, breeding, and nesting areas for a host of species.

Laws and regulations that govern actions affecting wetlands habitats include:

Local Permits and Review

The State Shoreline Management Act (Chapter 90.58 RCW) tasks local governments with establishing shorelines of statewide significance and with creating overall development plans for all shorelines. The Shoreline Management Act explicitly includes wetlands associated with regulated shorelines. Any WSDOT project that impacts a wetland that is associated with a regulated shoreline is then subject to regulation under the Shoreline Management Act. Each county is empowered to enforce elements of the Shoreline Management Act.

The State Growth Management Act (Chapter 36.78 RCW and Chapter 365-195 WAC) requires applicable local governments to establish Critical Area Ordinances for the protection of critical habitats and species. Wetlands are one of the primary land types to be addressed under Critical Area Ordinances. WSDOT must gain local government approval under the Growth Management Act whenever wetlands are impacted. Requirements of these ordinances can vary widely from jurisdiction to jurisdiction. Each county planning under the Growth Management Act is empowered to adopt and enforce critical area ordinances.

State Permits and Review

The State Environmental Policy Act (SEPA) requires review of potential impacts to wetlands and identification of mitigation opportunities. WSDOT is the lead agency for its projects under SEPA. All agencies with expertise are expected to review documents created by the lead agency. The SEPA administrative code is adopted and updated by the Department of Ecology.

The State Water Pollution Control Act establishes standards of discharges to state waters, including wetlands, and the State's Water Quality Standards, 173-201(A) WAC, specifically require that the beneficial uses of wetlands be protected. The Department of Ecology permits wetland fill through 90.48 Orders for isolated wetland impacts, and through Clean Water Act Section 401 Water Quality Certifications for non-isolated wetlands. The Department of Ecology is mandated to enforce compliance with the State Water Pollution Control Act and require mitigation for wetland impacts in order to replace lost functions of the permitted impacts.

Hydraulic Project Approvals. Chapter 77.55 RCW governs construction projects in state waters and requires the department to get a Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife for all work in state waters, including wetlands that contain fish habitat. Chapter 220.110 WAC expands on this goal by including all work that may impact state waters. The purpose of this permit is to ensure that the state's aquatic species are not unduly harmed. WDFW issues Hydraulic Project Approvals.

Why do we mitigate for wetland impacts? (Continued)

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Federal Permits and Review

The National Environmental Policy Act (NEPA) applies to all projects that either receive federal funding or are required to obtain federal permits. Potential impacts and mitigation strategies are identified through Environmental Impact Statements (EIS), Environmental Assessments (EA), and Categorical Exclusions (CE). NEPA documents are managed through a federal lead agency, typically the Federal Highway Administration for WSDOT's transportation projects. NEPA is administered by the Environmental Protection Agency.

The Endangered Species Act was passed to protect and ensure the long-term viability of avian, terrestrial, aquatic, and marine species of flora and fauna. The United States Fish and Wildlife Service is tasked with managing avian, terrestrial, and aquatic species, while the National Oceanographic Administration Fisheries Service is tasked with managing marine species. The listed species most notable of to WSDOT are bull trout and salmon. With the listing of these species, practically every project proposed by the department must be reviewed for compliance with the Endangered Species Act. Prior to construction, a Biological Assessment must be completed and a Biological Opinion obtained from both of these agencies for each project that receives federal funding. The Endangered Species Act does not require a project to mitigate for impacts; however, if a finding of jeopardy is made for a species, the project may not move forward.

The Clean Water Act, Section 401, regulates discharge into waters. If wetlands are to be filled, a permit is required to be issued by the State under Section 401. Under an Executive Order, the Governor has delegated authority for Section 401 to the Washington State Department of Ecology.

The Clean Water Act, Section 402, regulates discharge of stormwater. Stormwater that flows from WSDOT construction sites, including stormwater that may flow into wetlands, is strictly regulated for erosion control under a National Pollution Discharge Elimination System permit. Enforcement of Section 402 has been delegated by the Environmental Protection Agency to the Washington State Department of Ecology.

The Clean Water Act, Section 404, regulates dredging and fill in waters, including the drainage of wetlands. Section 404 permits are granted through the United States Army Corps of Engineers (USACOE). USACOE has standards for delineation and mitigation of wetlands that must be followed to obtain a permit for construction of a project that may impact wetlands.

The Rivers and Harbors Act, Section 10, regulates wetlands associated with navigable waters. A recent court ruling states that this law does not apply to isolated wetlands. Permit approvals must be secured to ensure no obstructions to navigable waters occur. This is applicable to many WSDOT bridge activities. Section 10 permits are granted through the United States Army Corps of Engineers.

Why do we mitigate for wetland impacts? (Continued)

The Coastal Zone Management Act requires protection of coast natural resources such as shellfish and salmon, as well as broader ecological and geological functions of coastal areas. This act includes wetlands within Washington's 15 coastal counties. The Coastal Zone Management Act requires states that want to receive federal funding for coastal resource protection to develop a Coastal Zone Management Program. The National Oceanic and Atmospheric Administration Office of Ocean and Coastal Resource Management (OCRM) has approved the Washington State Department of Ecology's Program.

Tribal Governments Review. Federal treaties between Sovereign Tribal Nations and the federal government require WSDOT to maintain government-to-government relations with 29 federally recognized tribes. This covers cultural, environmental, and economic rights of the tribe related to aquatic species and habitat.

Why do we mitigate for stream impacts?

Streams are vital to the environment, providing both critical habitat and a mechanism for conveyance of water. Impacts on one part of a stream may affect an entire watershed system. Consequently, maintaining the health of streams is essential to providing a healthy environment.

Laws and regulations that govern actions affecting riparian habitats include:

Local Permits and Review

The Shoreline Management Act (Chapter 90.58 RCW) tasks local governments with establishing shorelines of statewide significance and with creating overall development plans for all shorelines. Whenever WSDOT has a construction project in a river, it is required to get a permit from the appropriate local jurisdiction to ensure that shoreline protection requirements are met and that the development is compatible with the local plan.

The State Growth Management Act (Chapter 36.78 RCW and Chapter 365-195 WAC) requires applicable local governments to establish Critical Area Ordinances for the protection of critical habitats and species. Many riparian areas are included in local Critical Area Ordinances.

State Permits and Review

Hydraulic Project Approvals. Chapter 77.55 RCW governs construction projects in state waters and requires the department to get a Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife for all work in state waters. Chapter 220.110 WAC expands on this goal by including all work that may impact state waters. The purpose of this permit is to ensure that the state's aquatic species are not unduly harmed.

Federal Permits and Review

The National Environmental Policy Act (NEPA) applies to all projects that either receive federal funding or are required to obtain federal permits. Potential impacts and mitigation strategies are identified through Environmental Impact Statements (EIS), Environmental Assessments (EA), and Categorical Exclusions (CE). NEPA documents are managed through a federal lead agency, typically the Federal Highway Administration for WSDOT's transportation projects. NEPA is administered by the Environmental Protection Agency.

Why do we mitigate for stream impacts? (Continued)

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The Endangered Species Act was passed to protect and ensure the long-term viability of avian, terrestrial, aquatic, and marine species of flora and fauna. The United States Fish and Wildlife Service is tasked with managing avian, terrestrial, and aquatic species, while the National Oceanographic Administration Fisheries Service is tasked with managing marine species. The listed species most notable to WSDOT are bull trout and salmon. With the listing of these species, practically every project proposed by the department must be reviewed for compliance with the Endangered Species Act. Prior to construction, a Biological Assessment must be completed and a Biological Opinion obtained from both of these agencies for each project that receives federal funding. The Endangered Species Act does not require a project to mitigate for impacts; however, if a finding of jeopardy is made for a species, the project may not move forward.

The Clean Water Act, Section 401, regulates discharge into waters. If rivers are to be filled or discharge is made into a river, a permit is required under Section 401. Such a permit may require mitigation of impacts as part of the permit approval. Under an Executive Order, the Governor has delegated authority for Section 401 to the Washington State Department of Ecology.

The Clean Water Act, Section 402, regulates discharge of stormwater. Stormwater that flows from WSDOT construction sites into river systems is strictly regulated for erosion control under a National Pollution Discharge Elimination System permit. This permit establishes best management practices for erosion control on construction projects. Enforcement of Section 402 has been delegated by the Environmental Protection Agency to the Washington State Department of Ecology.

The Clean Water Act, Section 404, regulates dredging and fill in waters, including rivers. Section 404 permits are granted through the United States Army Corps of Engineers.

The Rivers and Harbors Act, Section 10, regulates all navigable waters. Permit approvals must be secured to ensure no obstructions to navigable waters occur. This is applicable to many WSDOT bridge construction activities. Section 10 permits are granted through the United States Army Corps of Engineers.

The Coastal Zone Management Act requires protection of coast natural resources such as shellfish and salmon, as well as broader ecological and geological functions of coastal areas. The Coastal Zone Management Act requires states that want to receive federal funding for coastal resource protection to develop a Coastal Zone Management Program. The National Oceanic and Atmospheric Administration Office of Ocean and Coastal Resource Management (OCRM) has approved the Washington State Department of Ecology's Program.

Tribal Governments Review. Federal treaties between Sovereign Tribal Nations and the federal government require WSDOT to maintain government-to-government relations with 29 federally recognized tribes. This covers cultural, environmental, and economic rights of the tribe related to aquatic species and habitat.